

327-8023

NJH:sac

#91348

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

NAVIGATORS INSURANCE CO., INC., a/s/o )  
and on behalf of AMERICA'S FREIGHT )  
CARRIER, INC., d/b/a MERIT FREIGHT )  
SYSTEM, )

Plaintiff, )

v. )

NG EXPRESS, INC., MONTEX )  
TRANSPORTATION, INC., and NORTHWOOD )  
ASSOCIATES, INC., )

Defendants. )

)Case No.: 1:08 CV 1230  
)Assigned Judge: George W. Lindberg  
)Designated Magistrate Judge: Morton Denlow

**MOTION TO CONTINUE SEPTEMBER 3, 2008 DISCOVERY CUTOFF DATE  
AND OCTOBER 15, 2008 DISPOSITIVE MOTION FILING DEADLINE**

NOW COME the Defendants, NG EXPRESS, INC. and MONTEX TRANSPORTATION, INC., by and through their attorneys, CORNELIUS J. HARRINGTON, III and the LAW FIRM of BULLARO & CARTON, P.C., and hereby move this Honorable Court to continue the September 3, 2008 discovery cutoff date and October 15, 2008 deadline for filing Motions for Summary Judgment and in support thereof, state as follows:

1. The Plaintiff filed their Complaint on February 29, 2008, less than six months ago seeking to recovery money damages for a shipment of goods that was allegedly stolen in Miami, Florida while being transported by the Defendants, NG Express, Inc. and Montex Transportation, Inc. (hereinafter "NG" and "Montex"). (Plaintiff's Complaint is incorporated herein by reference).

2. The co-defendant, Northwood Associates, Inc. (hereinafter "Northwood") procured insurance to cover cargo liability which policy of insurance was issued by the Lexington Insurance Company for the benefit of the Defendants NG and Montex to cover cargo losses such as the one

that is the subject of this litigation. A dispute has arisen concerning certain coverages and exclusions under the Lexington Insurance Company policy regarding the amounts of coverage to be extended for the subject load based on the commodities that were being transported.

3. Nevertheless, pursuant to the policy of insurance issued by Lexington to its insureds, NG and Montex, Lexington Insurance has retained the Law Firm of Bullaro & Carton, P.C. to defend the interest of NG and Montex with respect to this litigation which is premised under the Carmack Amendment.

4. As the Court will take judicial notice, counsel for these Defendants pursuant to their retention by Lexington Insurance have just recently appeared on behalf of said Defendants. Counsel for these Defendants has recently received a copy of this Court's Order of June 11, 2008 at which time this Court set a discovery cutoff date of September 3, 2008 and a deadline for filing summary judgment motions and supporting memorandum as of October 15, 2008.

5. Counsel for these Defendants has also come to learn that there have been issued interrogatories and a request for production of documents by the Plaintiff to be answered by these Defendants. It is also believed that the representatives of NG Express and Montex are currently out of the country and are unavailable to assist counsel with respect to responding to these written discovery requests as counsel has been so advised by Michael Meschino who has previously filed his appearance on behalf of said Defendants at their request but not pursuant to the request of Lexington Insurance Company.

6. Less than 30 days remains before the discovery cutoff date and less than 75 days remain before the deadline by which motions for summary judgment are to be filed.

7. Thomas Carton and Cornelius J. Harrington, III have requested and received from counsel of record pleadings and written discovery that have been exchanged to date by the parties. Counsel for these Defendants have been unable to contact their clients directly not only to respond to the written discovery requests but also to gather further information to benefit these Defendants as concerning their defense of the allegations directed against them by Plaintiff's Complaint.

8. It is respectfully submitted to the Court that in the fairness of justice that additional time is needed for counsel to not only obtain relevant information pertaining to the issues involved in this lawsuit and answer written discovery, but also to pursue additional discovery in order to properly assess whether a motion for summary judgment would be viable as pertaining to these Defendants' defense. To this counsel's knowledge there has been no oral discovery that has been initiated to date. It is likely that several depositions in the State of Florida, and quite likely the State of Washington, will need to be scheduled and taken before the parties could properly assess the merits of preparing motions for summary judgment, as well as being properly prepared to draft and submit to this Court the appropriate Pretrial Order.

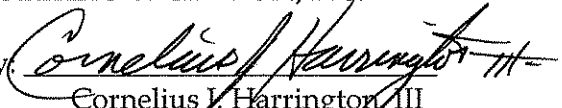
9. It is respectfully submitted that quite possibly the most efficient way for the parties to assess their relative positions with respect to discovery and dispositive motion issues would be to come before this Court pursuant to a status hearing for purposes of resetting the discovery cutoff date as well as the deadline for filing dispositive motions and appropriate memorandum.

WHEREFORE, the Defendants, NG Express, Inc. and Montex Transportation, Inc. pray that this Honorable Court will enter an Order continuing the September 3, 2008 discovery cutoff date and the October 15, 2008 deadline for filing motions for summary judgment and supporting memorandum at least 90 days or, alternatively, schedule a status hearing for all counsel of record to attend before this Honorable Court to reset the previously prescribed deadlines as set forth in

this Court's Order of June 11, 2008 for dates that are most convenient with this Honorable Court's calendar.

Respectfully submitted,

**BULLARO & CARTON, P.C.**

By:   
Cornelius J. Harrington III

BULLARO & CARTON, P.C.  
200 North LaSalle Street  
Suite 2500  
Chicago, IL 60601  
(312) 831-1000  
(312) 831-0647